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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,895	11/21/2003	Olga Maria Schone	203/1	1668

7590 10/20/2004

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EXAMINER

ABDELWAHED, ALI F

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/718,895	<b>Applicant(s)</b> SCHONE, OLGA MARIA	
	<b>Examiner</b> Ali Abdelwahed	<b>Art Unit</b> 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,575,297 B2 to Schutten in view of U.S. Patent No. 5,393,100 to Coe and U.S. Patent No. 4,632,428 to Brown.

Schutten discloses the claimed invention except for having a color image identifying each medicine pill and the residence address of the patient. However, Coe teaches a personalized medication card comprising the concept of having a color image (42) identifying each medicine pill (see fig. 2, and respective portions of the specification); and Brown teaches a personalized medication card comprising the concept of having the residence address of the patient (see column 3, lines 52-56). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the personalized medication card of Schutten, in view of Coe and Brown, such that it would provide the personalized medication card of Schutten with the concepts of the aforementioned limitations for the purpose of facilitating the identification of the medicine pills and providing vital personal information about the patient.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,575,297 B2 to Schutten in view of U.S. Patent No. 5,031,937 to Nellhaus and U.S. Patent No. 4,632,428 to Brown.

Schutten discloses the claimed invention except for having a color image identifying each medicine pill and the residence address of the patient. However, Nellhaus teaches a personalized medication card comprising the concept of having a color image (24) identifying each medicine pill (see figs. 2, 4, and respective portions of the specification); and Brown teaches a personalized medication card comprising the concept of having the residence address of the patient (see column 3, lines 52-56). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the personalized medication card of Schutten, in view of Nellhaus and Brown, such that it would provide the personalized medication card of Schutten with the concepts of the aforementioned limitations for the purpose of facilitating the identification of the medicine pills and providing vital personal information about the patient.

### ***Response to Arguments***

Applicant's arguments filed July 30, 2004 have been fully considered but they are not persuasive.

In regards to Applicant's arguments concerning the 103(a) rejections made to claims 1-20, specifically the arguments that the Coe and Nellhaus references do not teach a color image identifying each medicine/pill. Examiner would like to note that the

Coe reference teaches a plurality of stickers 42 that are carried on the medication card, and each sticker containing a graphic picture of the medicine, for example, a tablet 44. The Nellhaus reference teaches a medication booklet comprising a plurality of picture stamps 24 which include a pictorial representation 26 of the particular medicine/pill to be taken.

However, pictorial systems utilizing color for identifying different types of medicines is a very well known method of practice in the art, as is further evidenced by U.S. Patent Application Publication No. 2003/0193185 A1 to Valley et al. which discloses a method of providing a pharmaceutical label having an identifying color image of the medicine/pill printed thereon (see fig. 3, [32, 34], and paragraphs [0011], [0019], [0022], lines 1-7, 13-19, and 1-6, respectively), and U.S. Patent No. 5,261,702 to Mayfield and U.S. Patent No. 4,815,767 to Lambert which both disclose a medication chart with instructions for administering the medicine/pills utilizing a color-coded method of identifying the different types of medicines to be taken by the patient. Therefore, the graphic picture on the stickers of the Coe reference and the pictorial representation on the picture stamps of Nellhaus would have been well known in the art to be of color to further aid in the identification of the particular medicine/pill.

Furthermore, color is not considered to be a patentably distinct feature and matters related to the choice of ornamentation producing no mechanical effect or advantage considered to constitute the invention are considered obvious and do not impart patentability. *In re Seid* 73 USPQ 431.

Art Unit: 3722

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (703) 305-3311. The examiner can normally be reached Monday through Friday from 10:00 A.M. to 6:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on (703) 308-2159.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

AA  
10/12/2004

  
A. L. WELLINGTON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700